

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMERICAN EMPIRE SURPLUS LINES
INSURANCE COMPANY, as subrogee of
FROCK BROS. TRUCKING, INC.,

Plaintiff,

V.

CUMMINS INC.,

Defendant.

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)
) Case No. 08 CV 2799
)
) Judge Dow
)
) Magistrate Valdez
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CUMMINS INC.'S MOTION TO TRANSFER VENUE

Cummins Inc. (“Cummins”), pursuant to 28 U.S.C. § 1404(a), respectfully moves the Court to transfer this case to the United States District Court for the District of Nebraska, Lincoln. In support of this motion, Cummins states as follows:

1. The Northern District of Illinois is not the appropriate forum for this dispute. The events that underlie the claims made by Plaintiff American Empire Surplus Lines Insurance Company (“American Empire” or “Plaintiff”) all occurred in Antelope County, Nebraska, almost 600 miles away. Virtually all potential material witnesses live in Nebraska. The Court, moreover, will have to apply Nebraska law to resolve Plaintiff’s claims.

2. Plaintiff is a Delaware corporation with its principal place of business in Cincinnati, Ohio. Plaintiff's insured, Frock Bros. Trucking, is a Pennsylvania corporation with its principal place of business in New Oxford, Pennsylvania. With the sole exception of its counsel's office, neither Plaintiff nor its claims have any connection whatsoever with Illinois.

3. The factors that guide the Court in passing on motions to transfer venue pursuant to 28 U.S.C. 1404(a) overwhelmingly support transfer of this matter from the Northern District of Illinois to the District of Nebraska.

4. Cummins incorporates by reference its memorandum in support of this motion to transfer venue filed herewith.

Respectfully submitted,

CUMMINS INC.

/s/ Brendan J. Healey

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that I filed a copy of the foregoing with the Clerk of the Court using the ECM/ECF system. I further certify that a copy of the foregoing *Cummins Inc.'s Motion to Transfer Venue* was served on May 19, 2008 by First-Class United States Mail, postage prepaid on the following counsel of record:

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/s/ Brendan J. Healey
An Attorney for Defendant